

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v David Antonio Garcia**
Docket No. **276970**
L.C. No. **2003-191899-FH**

William C. Whitbeck, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10),
orders:

The delayed application for leave to appeal filed on March 21, 2007, is DISMISSED for lack of jurisdiction because the application for leave to appeal was not filed within 12 months of the November 3, 2003 judgment of sentence and neither one of the two exceptions found in MCR 7.205(F)(4) applies. The first exception does not apply because the postjudgment motion was not filed within 12 months of the judgment of sentence. The second exception does not apply because the application was not filed within 42 days of the November 22, 2006 filing of the transcripts as required by MCR 7.205(F)(4)(c). The time periods run from the judgment of sentence, not the order of appointment because this is not a *Halbert* case. *Halbert* involves a situation where appellate counsel was initially denied. In this case the initial request for counsel, though delayed, was granted.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

MAR 29 2007

Date

Sandra Schultz Mengel

Chief Clerk